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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,080	07/31/2001	Robert E. Gillis	016494-001200US	4438

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/920,080

Applicant(s)

GILLIS, ROBERT E. 

Examiner

Jennifer E. Novosad

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 6,13,14,19,27 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-12,15-18,20-26,29 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 17 March 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**


This final Office action is in response to the amendment filed March 17, 2003 (Paper No. 8).

#### ***Status of Claims***

Claims 6, 13, 14, 19, 27, and 28 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

#### ***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on March 17, 2003 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

 However, the drawings filed on July 31, 2001, are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spar~~✓~~ connected "directly" to the pole, as in claims 5 and 18, must be shown or the feature canceled from the claim. No new matter should be entered. It is noted that Figures 3a-c each show some kind of structure between the pole and spar. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Art Unit: 3634

***Specification***

The disclosure is objected to because in line 6 of paragraph [0021], "spa" should be changed to --spar--. Appropriate correction is required.

***Claim Objections***

Claim 16 is objected to because in line 7, "end" should be changed to --ends--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5, 7-12, 15, 29, 30, 16-18, 20-24, 25, and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation "at a point intermediate said first and second ends" in line 6 of claim 1, lines 6-7 of claim 16 and line 5 of claim 25 renders the claims indefinite since it is unclear which ends are being referenced, i.e., it is noted that the pole and the spar each have been defined as having first and second ends.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3634

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 7-12, 15, and **25** are rejected under 35 U.S.C. 102(b) as being anticipated by Eastaugh '945.

Eastaugh '945 discloses an assembly comprising an elongated flexible pole (22) having a first end (near 28) and a second end (near 40) which terminate in a substantially common plane (see Figure 2, the plane is parallel to the length of the pole); at least one spar (46) having first and second ends whereby the spar (46) is flexibly connected directly to and arranged substantially transversely to the pole (22) at a point intermediate, i.e., between, the ends of the pole whereby the ends of the spar are free; a membrane (14) is flexibly connected to the assembly over the pole and the spar; the spar (46) has a bent shape (see Figure 6); the ends of the spar (46) do not terminate in the common plane; the pole (22) is capable of flexing in a *substantially* arcuate shape (see Figure 5) under tension whereby a tensioning means, i.e., the wind, is in communication with the pole to place the pole under tension which causes the pole to flex to the substantially arcuate shape; the pole comprising a plurality of interconnected pole segments (see Figure 2- the pole is telescopic); the spar associated only with the pole (22).

Claims 1-5, 7-10, 12, 15, 30, **16-18**, and 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Leibel '410.

Leibel '410 discloses an assembly comprising an elongated flexible pole (37) having a first end (to the left of e) and a second end (to the left of j) which terminate in a *substantially* common plane (see Figure 5); a plurality of spars (11, 13, 15, and 17) having first and second ends whereby the spars are each flexibly connected directly to and arranged *substantially*

Art Unit: 3634

transversely to the pole at a point intermediate, i.e., in the middle region of, the ends of the pole whereby one of the ends of the spar is free; a membrane (42) is flexibly connected to the assembly over the pole and the spar to thereby define a substantially sheltered space whereby the membrane tensions the pole and the spar; the spar has a bent shape (see Figure 6); both of the ends of the spar does not terminate in the common plane; the pole is capable of flexing in a *substantially* arcuate shape (see Figure 5) under tension; the pole comprising a plurality of interconnected pole segments (e-j, see Figure 5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eastaugh '945, alone.

Eastaugh '945 discloses the assembly as advanced above.

The claim differs from Eastaugh '945 in requiring a plurality of spars.

Although Eastaugh '945 discloses only one spar, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have provided Eastaugh with a plurality of spars, for increased stability of the pole when under tension.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eastaugh '945 as applied to claims 1, 2, 4, 5, 7-12, 15, and **25** above, and further in view of Dudouyt '287.

Eastaugh '945 discloses the assembly as advanced above.

The claim differs from Eastaugh '945 is requiring a guy line, i.e., wire, engaging the spar and terminating in the common plane to keep the assembly upright.

Dudouyt '287 teaches an assembly comprising a guy line (at 5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the assembly of Eastaugh '945 with a line as taught by Dudouyt '287 for increased support and stability of the assembly.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-5, 7-12, 15-18, and 20-26 have been considered but are moot in view of the new ground(s) of rejection. The new grounds of rejection were necessitated by the amendment reciting "at a point intermediate said first and second ends" in line 6 of claim 1, lines 6-7 of claim 16 and line 5 of claim 25.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 3634

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.

Jennifer E. Novosad/jen  
May 19, 2003

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looped initial "D".

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600